

BEFORE THE BOARD OF NURSING  
STATE OF MONTANA

IN THE MATTER OF DOCKET NO. CC-07-0190-NUR REGARDING:

THE PROPOSED DISCIPLINARY	) Case No. 1412-2007
TREATMENT OF THE LICENSE OF	)
JACQUELINE SONMEZ, RN,	) <b>FINDINGS OF FACT;</b>
License No. 28189.	) <b>CONCLUSIONS OF LAW;</b>
	) <b>AND PROPOSED ORDER</b>

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**I. INTRODUCTION**

In this matter, the Department of Labor and Industry (hereinafter Department) seeks to impose sanctions against Jacqueline Sonmez's (hereinafter Licensee) nursing license, License No. 28189, issued by the Montana Board of Nursing. The hearing in this matter occurred on June 6, 2007. Anjeanette Christiansen, agency legal counsel, represented the Department. The Licensee failed to appear despite having received proper notice of the hearing. Exhibits 1-3 were admitted into evidence. Sandra Yates and Joan Bowers testified under oath on behalf of the Department. Based on the evidence and arguments adduced at the hearing in this matter, the hearing examiner makes the following findings of fact, conclusions of law, and proposed order recommending suspension of the Licensee's nursing license.

**II. FINDINGS OF FACT**

1. The Licensee is a registered nurse holding License No. 28189. At all times relevant to this proceeding, the Licensee has been a registered nurse in the state of Montana.
2. The Licensee arrived for work on June 19, 2006 in an impaired condition resulting from excessive alcohol consumption and the ingestion of the prescription medication Klonopin, a controlled substance defined in Title 50, chapter 32.
3. The Licensee enrolled in the Nursing Assistance Program (NAP) after self-reporting the incident. The NAP provides needs assessments and resources such as counseling, group support, and drug screen monitoring for Licensees who suffer from substance abuse problems.
4. Sonmez's reporting to work in an impaired state violated policies or procedures of St. Peter's Hospital designed to safeguard patient care. Ex. 2.

5. Sonmez's conduct indicates that she poses a risk to patient care, including the possibility of additional impairment issues, administering inappropriate medications, and conducting improper patient assessments.

### III. CONCLUSIONS OF LAW

1. Jurisdiction of this matter is vested in the Montana Board of Nursing under § 37-1-121, MCA, Title 37, Chapter 1, Part 3, MCA, and § 37-8-202, MCA.

2. As the Department seeks to impose sanctions against a license, it must demonstrate the existence of the allegations contained in the complaint by a preponderance of the evidence. § 37-3-311, MCA; *Ulrich v. State ex rel. Board of Funeral Service*, 289 Mt. 407, 961 P.2d 126 (1998).

3. Section 37-1-316, MCA, provides in pertinent part:

The following is unprofessional conduct for a licensee . . . governed by this chapter:

. . .

(11) use of a habit-forming drug or controlled substance as defined in Title 50, chapter 32, to the extent that the use impairs the user physically or mentally.

(18) conduct that does not meet generally accepted standards of practice.

4. Admin R. Mont. 24.159.413(2)(a) defines unprofessional conduct to include "failing to utilize appropriate judgment in administering safe nursing practice based upon the skill level of nursing for which the individual is licensed."

5. Admin. R. Mont. 24.159.413(2)(c) defines unprofessional conduct to include "failing to follow policies or procedures defined in the practice situation to safeguard patient care."

6. The uncontroverted evidence presented in this matter shows that the Licensee has committed unprofessional conduct under § 37-1-316(11) and (18), MCA, Admin R. Mont. 24.159.413(2)(a), and Admin. R. Mont. 24.159.413(2)(c). The Licensee reported to work as a nurse in an impaired state brought about by the abuse of alcohol and controlled substances. Her conduct indicates a failure to utilize appropriate judgment in administering safe nursing practice. Her license is thus vulnerable to the imposition of the sanctions provided in § 37-1-312, MCA.

7. To determine which sanctions are appropriate, the regulatory board must first consider the sanctions necessary to protect the public. Only after this determination has been

made can the board then consider and include in the order requirements designed to rehabilitate the licensee. Mont. Code Ann. § 37-1-312(2).

8. Section 37-1-312, MCA, provides that upon a determination that the licensee has violated Title 37, Chapter 1, Part 3, the board may issue an order providing for, among other things, suspension of a professional license for a fixed or indefinite term, compliance with conditions of probation, and satisfactory completion of a specific program of treatment.

9. Probation and possible suspension of the Licensee's Montana nursing license until such time as the Licensee completes the nurse's assistance program is appropriate in this case. In the absence of monitoring and demonstrated compliance with NAP, the public cannot be assured of the fitness of the Licensee to practice nursing in a safe and competent manner. Thus, in the event of her failure to adhere to the terms of her probation, her license must be suspended until such time as she complies with the terms.

#### **IV. PROPOSED ORDER**

Based on the foregoing, the hearing examiner recommends that the Board enter its order placing Sonmez on probation for a period of three years with the terms:

(1) That Sonmez shall, at her own expense, enroll in and successfully complete the disciplinary track of the Nursing Assistance Program;

(2) That Sonmez shall comply with any monitoring of her practice implemented by the Board;

(3) That Sonmez shall obey (a) all provisions of Title 37, Chapters 1 and 8, Montana Code Annotated, (b) all provisions of Title 24, Chapter 159, Mont. Admin. R., and (c) and all requirements or directives imposed by the Board; and

(4) That in the event Sonmez fails to comply with any of the above terms and conditions of her probation, that her license be summarily suspended until such time as she comports with the terms and conditions of her probation.

DATED this 19th day of September , 2007.

DEPARTMENT OF LABOR & INDUSTRY  
HEARINGS BUREAU

By: /s/ DAVID A. SCRIMM  
DAVID A. SCRIMM  
Hearing Examiner

### **NOTICE**

The parties to this proceeding are notified that §2-4-621, MCA, provides that the proposed order in this matter, if adverse to a party other than the agency itself, may not be made final by the regulatory board until this proposed order is served upon each of the parties and the party adversely affected by the proposed order is given an opportunity to file exceptions and present briefs and oral argument to the regulatory board.